



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

April 13, 1939

*rs - Gen 248*  
*over - Gen 248*  
*af -*  
Mr. Fred Norris  
County Auditor  
Livingston, Texas

Dear Sir:

*Polk Co.*  
Opinion No. 0-616  
Re: Fees of Justice of the Peace  
in misdemeanor cases.

Your request for an opinion on the following questions has been received by this office:

"1. Does the Justice of the Peace receive \$3.00 for each criminal case tried and finally disposed of before him. Is the fee paid by the defendant?

"2. Does the Justice of the Peace receive \$1.50 for each criminal case tried and finally disposed of before him when the convict works his fine out on the public roads, etc.?

"3. Does the Justice of the Peace receive any fee when the convict lays his fine out in jail?

"4. Does the County Judge receive the same fee as the Justice of the Peace in similar cases?

"5. What commission should be collected by the county attorney, district attorney, justice of the peace, sheriff and county clerk on each fine collected?"

Article 1052, C. C. P. reads as follows:

"Three Dollars shall be paid by the county to the County Judge, or Judge of the Court at Law,

and Two Dollars and fifty cents shall be paid by the county to the Justice of the Peace, for each criminal action tried and finally disposed of before him. Provided, however, that in all counties having a population of 20,000 or less, the Justice of the Peace shall receive a trial fee of Three Dollars. Such Judge or Justice shall present to the Commissioners' Court of his county at a regular term thereof, a written account specifying each criminal action in which he claims such fee, certified by such Judge or Justice to be correct, and filed with the County Clerk. The Commissioners' Court shall approve such account for such amount as they find to be correct, and order a draft to be issued upon the County Treasurer in favor of such Judge or Justice for the amount so approved. Provided the Commissioners' Court shall not pay any account or trial fees in any case tried and in which an acquittal is had unless the State of Texas was represented in the trial of said cause by the County Attorney, or his assistant, Criminal District Attorney or his assistant, and the certificate of said Attorney is attached to said account certifying to the fact that said cause was tried, and the State of Texas was represented, and that in his judgment there was sufficient evidence in said cause to demand a trial of same."

Articles 950 and 951 of the Code of Criminal Procedure read as follows:

"Art. 950. The district or county attorney shall be entitled to ten per cent of all fines, forfeitures or moneys collected for the State or county, upon judgments recovered by him; and the clerk of the court in which said judgments are rendered shall be entitled to five per cent of the amount of said judgments, to be paid out of the amount when collected.

"Art. 951. The sheriff or other officer,

Mr. Fred Norris, April 13, 1939, Page 3

except a justice of the peace or his clerk, who collects money for the State or county, except jury fees, under any provision of this Code, shall be entitled to retain five per cent thereof when collected."

Article 1052, supra, specifically provides that the county judge, or judge of the court at law, shall be paid \$3.00 by the county, for each criminal action tried and finally disposed of before him, such statute further provides that the justice of the peace shall receive \$2.50 in all counties having a population in excess of 20,000 and \$3.00 in all counties having a population of 20,000 or less for each criminal action tried and finally disposed of before him, such fees to be paid by the county when such claims are filed in compliance with Article 1052, C. C. P. It is immaterial whether the defendant who is convicted in such criminal action pays his fine and costs or works his fine and costs out on the county farm, public roads or other public works of the county, or satisfies such fine and costs by staying in jail a sufficient length of time to discharge his fine and costs. The judge or justice is entitled to the full fee as provided by Article 1052, supra, for each criminal action tried and finally disposed of before him.

In view of the foregoing statutes, you are respectfully advised that it is the opinion of this Department that the manner in which a judgment in a misdemeanor case is satisfied is immaterial and that the judge or justice is entitled to receive and be paid by the county the full fee as provided by Article 1052, C. C. P. for each criminal action tried and finally disposed of before him.

You are further advised that the district or county attorney shall be entitled to ten per cent of all fines, forfeitures or money collected for the state or county upon judgments recovered by him and the clerk of the court in which such judgments are rendered shall be entitled to five per cent of the amount of such judgment

Mr. Fred Norris, April 13, 1939, Page 4

and that the sheriff or other officer except the justice of the peace or his clerk who collects money for the state or county, except jury fees, under any provision of this code, shall be entitled to retain five per cent thereof, All of these commissions are to be paid out of the amount, when collected.

Trusting that the foregoing answers your inquiry,  
we remain

Very truly yours

ATTORNEY GENERAL OF TEXAS

By *Ardell Williams* ✓  
Ardell Williams  
Assistant

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APPROVED:

*Gerald B. Myers*  
ATTORNEY GENERAL OF TEXAS